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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,531	05/12/2004	Jason Harmon	41PT-124392 (GEN-0178-P)	3530
23413	7590	03/16/2005	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			DONOVAN, LINCOLN D	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/709,531

Applicant(s)

HARMON ET AL.

Examiner

Lincoln Donovan

Art Unit

2832



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 11 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-5 7-10 12-17 19-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01-24-05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of embodiment 2 in the reply filed on 12-22-04 is acknowledged. The traversal is on the ground(s) that "embodiments 1 and 2 are alternative embodiments of the same invention." This is not found persuasive. Claims 3 and 13 are rejoined with elected claims 1-2, 4-12 and 14-22 for examination purposes.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Morel et al. [US 5,103,198].

Regarding claim 1, Morel et al. disclose a circuit breaker [figure 1] comprising:

- a set of electrical contacts [11, 12];
- a first actuator [26] in fluid communication with the set of electrical contacts;
- a second actuator [23] in operable communication with the first actuator [figure 4]; and
- an operating mechanism [19] in operable communication with the set of electrical contacts and the second actuator [figure 1], wherein pressurized gas created by separation of the set of electrical contacts acts on and drives the first actuator, which

acts on and drives the second actuator, which effectuates tripping of the operating mechanism [column 3, line 57-column 4, line 10].

Regarding claim 11, Morel et al. disclose the circuit breaker being a three pole breaker [figure 3] with at least one of the phases separating in response to another phase separation [figure 3].

Regarding claim 18, Morel et al. further discloses the circuit breaker having a base and cover [figure 1].

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Menocal [US 3,631,369].

Menocal discloses a circuit breaker [figure 1] comprising:

- a set of electrical contacts [22, 26];
- a first actuator [95] in fluid communication with the set of electrical contacts;
- a second actuator [36] in operable communication with the first actuator [figure 4]; and
- an operating mechanism [30] in operable communication with the set of electrical contacts and the second actuator [figure 1], wherein pressurized gas created by separation of the set of electrical contacts acts on and drives the first actuator, which acts on and drives the second actuator, which effectuates tripping of the operating mechanism [column 3, lines 1-48].

***Allowable Subject Matter***

Claims 2-5, 7-10, 12-17 and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

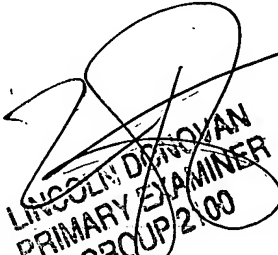
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is 571-272-1988. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cuneo Kamand can be reached on 571-272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ldd

  
LINCOLN DONOVAN  
PRIMARY EXAMINER  
GROUP 2.00